



# PUBLIC NOTICE

Federal Communications Commission  
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DA 02-399  
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## **Puerto Rico Telephone Company Files Petition for Waiver of the Commission's "All-or-Nothing" Rule (Section 61.41(c)) or, in the Alternative, for an Extension of Time for its Potential Conversion to Price Cap Regulation**

### **Pleading Cycle Established**

CCB/CPD No. 99-36

**COMMENTS:** March 7, 2002

**REPLY COMMENTS:** March 18, 2002

### **I. PETITION FOR WAIVER**

In this public notice, we seek comment on a petition filed by Puerto Rico Telephone Company, Inc. (Puerto Rico Telephone) on February 4, 2002.<sup>1</sup> Specifically, Puerto Rico Telephone requests that the Commission waive its "all-or-nothing" rule, section 61.41(c)<sup>2</sup>, to allow Puerto Rico Telephone to continue to be regulated as a rate-of-return incumbent local exchange carrier following its transfer of control to GTE Holdings (Puerto Rico) LLC (GTE Puerto Rico) in 1999. In the alternative, if it is required to convert to price cap regulation, Puerto Rico Telephone requests an extension of the effective date of its initial price cap tariff to July 1, 2003.

Puerto Rico Telephone is the incumbent local exchange carrier (LEC) serving Puerto Rico. It provides local exchange, exchange access, and intra-island services, and Internet access. On February 12, 1999, the Commission approved an application to transfer control of Puerto Rico Telephone to GTE Puerto Rico, a wholly owned subsidiary of GTE International

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<sup>1</sup> *Puerto Rico Telephone Company Petition for Waiver of Section 61.41 or Section 54.303(a) of the Commission's Rules*, Request for Grant of Petition for Wavier or, In the Alternative, Request for Extension, CCB/CPD 99-36 (Feb. 4, 2002).

<sup>2</sup> 47 C.F.R. §§ 61.41(c). The "all or nothing" rule mandates that, when a price cap carrier acquires, is acquired by, merges with, or otherwise becomes affiliated with a non-price cap carrier, the non-price cap carrier shall become subject to price cap regulation.

Telecommunications Incorporated (GTE).<sup>3</sup> The Common Carrier Bureau (Bureau) granted Puerto Rico Telephone an extension of its deadline to convert to price cap status until July 1, 2000.<sup>4</sup> On June 5, 2000, in light of the Commission's *CALLS Order*,<sup>5</sup> the Commission extended Puerto Rico Telephone's conversion deadline to July 1, 2001.<sup>6</sup> Based on issues pending in the Commission's MAG proceeding,<sup>7</sup> the Bureau further extended Puerto Rico Telephone's conversion deadline to July 1, 2002.<sup>8</sup>

Puerto Rico Telephone maintains that its petition for waiver of section 61.41(c) would serve the public interest and is consistent with prior Commission decisions where the Commission has granted a waiver of section 61.41. In the alternative, Puerto Rico Telephone argues that, if it is required to convert to price cap regulation, granting an extension of time to file the annual price cap tariff, to be effective July 1, 2003, will provide administrative ease and synchronization of Puerto Rico Telephone's price cap filings.

## II. PROCEDURAL MATTERS

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.<sup>9</sup> Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one-sentence or two-sentence description of the views and arguments presented is generally required.<sup>10</sup> Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>11</sup>

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<sup>3</sup> *Puerto Rico Telephone Authority, Transferor, and GTE Holdings LLC, Transferee, for Consent to Transfer Control of Licenses and Authorization Held by Puerto Rico Telephone Company and Celulares Telefonica, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 3122 (1999).

<sup>4</sup> *Puerto Rico Tel. Co. Petition for Waiver of Section 61.41 or Section 54.303(a) of the Commission's Rules*, Order, 15 FCC Rcd 2785 (Common Carrier Bureau 2000).

<sup>5</sup> *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) (*CALLS Order*).

<sup>6</sup> *Puerto Rico Tel. Co. Petition for Waiver of Section 61.41 or Section 54.303(a) of the Commission's Rules*, Order, 15 FCC Rcd 9680 (2000).

<sup>7</sup> *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 01-304 (rel. Nov. 8, 2001).

<sup>8</sup> *Puerto Rico Tel. Co. Petition for Waiver of Section 61.41 or Section 54.303(a) of the Commission's Rules*, Order, 16 FCC Rcd 12343 (Common Carrier Bureau 2001).

<sup>9</sup> See 47 C.F.R. §§ 1.1200, 1.1206.

<sup>10</sup> See 47 C.F.R. § 1.1206(b).

<sup>11</sup> 47 C.F.R. § 1.1206(b).

Interested parties may file comments no later than March 7, 2002. Reply comments may be filed no later than March 18, 2002. When filing comments, please reference the internal file number: CCB/CPD 99-36.

An original and four copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall serve with three copies with the Competitive Pricing Division, Common Carrier Bureau, 445 12th Street, SW, Room 5-A233, Washington, D.C. 20554, Attn: Rhonda Lien. Parties shall also serve with one copy with Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

Interested parties who wish to file comments via hand delivery are also notified that effective December 18, 2001, the Commission will only receive such deliveries weekdays from 8:00 a.m. to 7:00 p.m. at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002.

**The Commission no longer accepts these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743.** Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed of before entering the building. In addition, this is a reminder that as of October 18, 2001, the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (e.g., via Federal Express), including documents sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8:00 a.m. to 5:30 p.m. USPS First-Class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. The following chart summarizes this information:

TYPE OF DELIVERY	PROPER DELIVERY ADDRESS
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (e.g., Federal Express) including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-Class, Express, and Priority Mail	445 12 <sup>th</sup> Street, SW Washington, DC 20554

For further information, contact Rhonda Lien, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1520.